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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,021	11/19/2003	Brian J. Taylor	04AB026/YOD ALBR:0142/YOD	8807
7590 Alexander M. Gerasimow Allen-Bradley Company, LLC 1201 South Second Street Milwaukee, WI 53204-2496			EXAMINER PATEL, DHARTI HARIDAS	
			ART UNIT 2836	PAPER NUMBER
			MAIL DATE 10/16/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Applicant argues again that use of the Knox reference is improper because the pre appeal panel issued a decision stating “the rejection is withdrawn and a new office action will be mailed”. As explained by the examiner, only a portion of the pre appeal was agreed to by the pre appeal panel; that being the rejection of **claims 65, 67, 69, 71, 73, and 75**. Subsequently, that portion of the action encompassing claims 65, 67, 69, 71, 73, and 75 was rewritten to apply new grounds of rejection, consistent with the panel’s findings. It is unfortunate that the form letter mailed out does not have a box to indicate this; however, the examiner is already on record as stating such. The applicant can surely appreciate that the examiner has no reason to fabricate panel decisions on the written record. The rejection given under Knox stands. All arguments regarding Knox have already been responded to in previous actions.

Applicant has submitted new evidence in the form of NEC 70-37 and 70-292, (reproduced below), and states that according to the NEC, “a fault such as a short circuit or ground fault, is not an overload”; and that overload “does not include short circuits or ground faults.”

The examiner has reviewed the indicated reproduced portions below (highlighted by the applicant), but does not see any evidence of either of these statements.

The first line refers to devices over 600 volts. The second paragraph states that a separate overload device is selected to trip at no more than 125% (for motors with a temperature rise of 40 degrees Celsius.

FPN No. 1: For over 600 volts, nominal, see Part X.

(1) **Separate Overload Device.** A separate overload device that is responsive to motor current. This device shall be selected to trip or shall be rated at no more than the following percent of the motor nameplate full-load current rating:

Motors with a marked service factor 1.15 or greater	125%
Motors with a marked temperature rise 40°C or less	125%
All other motors	115%

The examiner's position on this issue is maintained. **As provided in the EC&M The basics of molded case circuit breakers document on 11/13/2007, a ground fault is a type of short circuit, specifically a phase to ground short circuit.**

/Michael J Sherry/

Supervisory Patent Examiner, Art Unit 2836

/D.P./